



U.S. Department of Justice

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November 12, 2010

Via Electronic and Regular Mail

Hon. Peter G. Sheridan, U.S.D.J.
United States District Court
Clarkson S. Fisher Federal Courthouse
402 E. State Street
Trenton, New Jersey 08608

SO ORDERED: Peter M. Hume
DATED: 11/15/10

Re: U.S. V. Dalnave Navigation Inc.
Crim. No. 09-130 (PGS)

Dear Judge Sheridan:

The Government writes to inform the Court that it withdraws, without prejudice, its motion for a hearing, pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure in the above-referenced matter, obviating the need for the hearing scheduled before the Court on November 16, 2010. The Government maintains its position that the defendant, Dalnave Navigation Inc. (hereinafter, "Dalnave"), violated its conditions of probation by, *inter alia*, failing to provide "complete unrestricted access to vessels," during the initial audit period, as required by the ECP. The Government withdraws the motion merely because the remedy it sought, that is sufficient time for the External Audit Group (hereinafter, the "EAG") to complete all of the audits required by the ECP, appears to have been achieved.

According to the EAG, audits of all vessels covered by the ECP have now been completed, albeit nearly two months after the August 31, 2010, expiration of the initial audit period. The EAG reports that the M/V Eireen audit was completed on August 24, 2010, the M/V Myron N on or about October 22, 2010, and the M/V Flipper on or about October 30, 2010.¹ The EAG has expressed confidence to the Government that, absent a recurrence of the

¹The Government has not received reports of these audits from the EAG, but has been advised that they will be forthcoming.

resistance to audits exhibited by Dalnave during the initial audit period, as documented in the Government's motion, it will complete the second round of audits by the August 31, 2011 deadline.

The Government reserves its right to re-file the instant motion and to file additional motions as facts and circumstances warrant.

Respectfully submitted,

PAUL J. FISHMAN
United States Attorney

/s/

By: Kathleen P. O'Leary
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cc: Michael G. Chalos, Esq. (via e-mail and regular mail)
Patricia Jenson, USPO (via email and regular mail)